IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.7733 of 2004

1. Shri Shivaji Shidu Patil
and others ..Petitioners

vs.

1. State of Maharashtra
and another ..Respondents

Shri V.S.Deokar for petitioners
Shri R.D.Rane, Addl.Govt.Pleader for respondents.

CORAM: A.P.SHAH &
S.U.KAMDAR JJ.
22nd September, 2004

P.C.

Rule.

2. Shri R.D.Rane, Addl.Govt.Pleader for respondent nos. 1 and 2 waives service. By consent, rule is taken up for hearing.

3. The petitioners joined the service of respondent no.2 Zilla Parishad, Sangli as graduate teachers. The petitioners were promoted as Extension Officer (Education) on various dates and since then the petitioners have been working as Extension Officers (Education) in respective regions. The main grievance of the petitioners is that respondent no.2 has failed to fix the pay and

appropriate increments for the post of Extension Officer and as a result the petitioners are getting the salary even less than the primary teacher. This position is also admitted by the Chief Executive Officer in his affidavit in reply.

4. The State of Maharashtra vide letter dated 18th April, 2004 had clarified in the context of Ahmadnagar Zilla Parishad that the Zilla Parishad is competent for making the appointments of Extension Officer (Education). The relevant portion letter dated 18th April, 2004 on translation reads as follows:

> As per the provisions in Maharashtra Zilla Parishad District Services (Recruitment) Rules, 1967, the posts of Extension Officers (Education), not less than 75%, can be filled up by nomination and temporary transfer. That means 100% posts can be filled up in above manner. As per recruitment rules, the posts of Extension Officers (Education) upto 25% can be filled up by promotion. Therefore, if suitable candidates for the posts of Extension Officers (Education) to be filled up by promotion, are not available then, the Chief

Executive Officer, Z.P.Ahmednagar is competent to fill up these posts by nomination and temporary transfer. Hence, under Rule 6(2) of Maharashtra Zilla Parishad, District Services (Recruitment) Rules, 1967 the question of according sanction to fill up the posts of Extension Officers (Education) to be filled up by promotion, by nomination and temporary transfer does not arise at all."

(emphasis supplied)

5. It appears that inspite of the clarification issued by the State Govt. the respondent no.2 failed to fix the payscale of the Extension Officers and the Chief Executive Officer instead of fixing the pay in view of the clarificatory letter issued by the State Govt. has again sought guidance from the State Govt. on the issue of pay fixation vide his letter dated 21st June, 2002 which is annexed as Exh.F to the petition. In this letter the Chief Executive Officer has stated that the pay has not been fixed as per rules 11(1) of the Maharashtra Civil Services (Pay) Rules, 1981. It is also stated that the post of Extension Officer (Education) is higher and responsible post

than a graduate teacher. Under the circumstances, we are inclined to direct the respondent no.2 Zilla Parishad to fix the pay of the petitioners and grant them benefit of higher pay scale including Chattopadhya Payscale as per the Rules.

6. In the result the petition succeeds. Respondent no.2 is directed to fix the pay scale of the petitioners in the post of Extension Officer (Education) right from the date of their respective appointments as Extension Officer (Education) and and release differential amount of salary within a period of 3 months from today. It is also made clear that the petitioners will be entitled to Chatopadhyay scale provided they comply with the terms and conditions of the relevant Govt. Resolutions. Rule is accordingly made absolute. No order as to costs.